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15 **UNITED STATES DISTRICT COURT**
 16 **DISTRICT OF NEVADA**
 17 **NORTHERN DIVISION (RENO)**

18 UNITED STATES OF AMERICA, ex rel.)
 19 DENNIS MONTGOMERY,)

20 Plaintiffs,)

21 v.)

22 WARREN TREPP; U.S. CONGRESSMAN)
 23 JAMES GIBBONS; eTREPPID)
 24 TECHNOLOGIES, LLC; GENERAL RONALD)
 25 BATH; ASCENTIA CAPITAL PARTNERS,)
 26 LLC; SLOAN VENABLES; PATTY GRAY;)
 27 PAUL HARALDSEN; MICHAEL WEST; and)
 28 DOES 1 through 20,)

Defendants.)

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
JUL 13 2009	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: <i>[Signature]</i>	DEPUTY

Case No. 3-06-CV-691

**IN CAMERA
AND UNDER SEAL**

**THE GOVERNMENT'S NOTICE OF ELECTION TO
DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. The United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States only has the right to a hearing when it objects to a settlement or dismissal of the action. U.S. ex rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel. Killingsworth v. Northrop Corp., 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that, should either the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause, at a later date.

Finally, the Government requests that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in

1 this action remain under seal because in discussing the content and extent of the United States'
2 investigation, such papers are provided by law to the Court alone for the sole purpose of
3
4 evaluating whether the seal and time for making an election to intervene should be extended.

5 A proposed order accompanies this notice.

6 Dated this 13th day of July, 2009.

7
8 Respectfully submitted,

9 TONY WEST
10 Assistant Attorney General

11 GREGORY A. BROWER
12 United States Attorney


13 
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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2009, copies of the foregoing The Government's Notice Of Election To Decline Intervention and Proposed Order were served on counsel for the relator by mailing same, postage prepaid, to:

Ellyn S. Garofalo, Esq.
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1 UNITED STATES OF AMERICA, ex rel.
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3 Plaintiffs,

4 v.

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5 WARREN TREPP; U.S. CONGRESSMAN
6 JAMES GIBBONS; eTREPPID
7 TECHNOLOGIES, LLC; GENERAL RONALD
8 BATH; ASCENTIA CAPITAL PARTNERS,
9 LLC; SLOAN VENABLES; PATTY GRAY;
10 PAUL HARALDSEN; MICHAEL WEST; and
11 DOES 1 through 20,

12 Defendants.

**IN CAMERA
AND UNDER SEAL**

Proposed
ORDER

13 The United States having declined to intervene in this action pursuant to the False Claims
14 Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows:

15 IT IS ORDERED that,

- 16 1. the complaint be unsealed and served upon the defendants by the relator;
17
18 2. all other contents of the Court's file in this action remain under seal and not be made
19 public or served upon the defendants, except for this Order and The Government's Notice of Election
20 to Decline Intervention, which the relator will serve upon the defendants only after service of the
21 complaint;
22
23 3. the seal be lifted as to all other matters occurring in this action after the date of this Order;
24
25 4. the parties shall serve all pleadings and motions filed in this action, including supporting
26 memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States
27 may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any
28 time;

